

by election the following members are declared elected :—

1. Sri K. Hanumanthaiya
2. Sri M. V. Rama Rao
3. Sri T. Mariappa
4. Sri H. S. Rudrappa
5. Sri N. Huchmashy Gowda
6. Sri L. Siddappa
7. Sri J. Mohamed Imam.

Under sub-rule (2) of Rule 184 the Deputy Speaker will also be a member of the Committee and the Speaker shall be the Chairman of this Committee.

STATISTICS RELATING TO QUESTIONS AND ANSWERS

Mr. SPEAKER.—Another information I would like to give, that is, the Statements of Questions :

Number of questions tabled ...	679
Number of questions admitted ...	667
Number of questions to which replies were furnished including today's list ...	259
Number of replies pending in our office ...	120
Number of questions to which replies are pending ...	288

Short Notice Questions

Number of questions tabled ...	13
Number of questions disallowed	11
(Consent of the Minister not given to 3 and disallowed by the Speaker 8.)	
Number of questions admitted by the Speaker and sent to Ministers for consent but with respect to which they have not yet indicated consent	2

SCOPE FOR DISCUSSION ON RULES FOR APPOINTMENT OF MUNSIFFS.

Sri J. MOHAMED IMAM (Jagalur) — Sir, I have got to bring to the notice of the Chair an important matter. The rules governing the appointment of persons to the posts of Munsiffs have been placed before this House only just now. I think it is appropriate that an opportunity should be given to

this House to discuss these rules and about their merits. Because it is placed before the House only just now, that is on the last day of the session, this opportunity to discuss has been denied to the House. So I would like to know whether the Government will invite the opinion of this House, under Article 309 of the Constitution, and obtain approval of this House for these rules.

Mr. SPEAKER.—There can be no debate so far as this matter is concerned.

Sri J. MOHAMED IMAM.—I beg to submit that under Article 309 all these rules will have to be governed. The provision reads as under:

“Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or any State:”

So, I think that under this article it is necessary that the Government should obtain the approval of this House regarding the rules governing the appointments; because all appointments to the public service have to be made under appropriate Acts passed by appropriate Government.

Mr. SPEAKER.—The Hon'ble Member may read the article in full. There is a proviso to that article.

Sri J. MOHAMED IMAM.—There is a proviso; but under the article itself these rules have been issued.

Mr. SPEAKER.—These rules have been issued under the proviso.

Sri J. MOHAMED IMAM.—But anyhow it must receive the approval of this House.

Mr. SPEAKER.—Whatever that may be, it is not a subject matter for debate today.

Sri J. MOHAMED IMAM.—In my humble opinion, it is a subject matter for debate.

Mr. SPEAKER.—Whether it can be considered during the next session or not is a matter which requires to be considered. At any rate, it cannot be taken up today.

Sri J. MOHAMED IMAM.—Not today. At least if the Government assure us that it will be taken up at the next session of the Legislature and they will obtain the opinion of this House, we may be able to help them by offering valuable advice. Though there is provision for holding examination, the entire power of appointment is vested with the Government. Therefore, full discretion is given to the Government to make appointments as they please. That is why I say that it is better, and in consonance with the spirit of democracy, to obtain the assent of this House.

***Sri A. BHEEMAPPA NAIK** (Molalkalmuru).—It also stands on the same analogy as the rules framed for the appointment of officers to the Public Service Commission. This is another set of rules framed in respect of a particular set of appointments. Therefore it is also necessary that these are to be discussed on the floor of this House. Nothing can prevent this being discussed.

***Sri M. LINGANNA** (Nanjangud).—Rules have been framed as per the instructions by the Rajpramukh and they have been placed before this House. But Article 309 presupposes some Act passed by this House. I would require clarification. Under what particular Act the rules have been framed? I will read the full proviso:

“Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor or Rajpramukh of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made

shall have effect subject to the provisions of any such Act.”

Here only rules are framed and until such Act is passed and under the particular provision of that Act rules are framed, these rules govern the appointments. Even these rules are subject to the provisions of the Act that is going to be promulgated by the Government or to be passed by this House. I seek information as to under what provision of the Act these rules have been framed; if these rules are going to be placed before this House, I submit that these particular rules have got to be scrutinised or considered by this House. In the absence of any particular Act placed before us and assent taken for that particular Act, I submit that an opportunity should be given to this House to scrutinise these rules.

***Sri S. SRINIVASA IYENGAR** (T-Narasipur).—After the Constitution was brought into force, under Article 309, the Government should have introduced enactments to regulate the conditions of service, holding of examinations, etc., to the several Government services in the State. What the Government are doing, ever since the introduction of the Constitution, is that they are taking shelter under the proviso and issuing rules. The proviso says that until such enactment is passed, the Government can make rules. It is two years since the Constitution is in force. Even at this stage the Government have not brought in here any Bill which would regulate the conditions of service of the State. I want to know why they should delay it. They should have brought in a Bill long ago. We should have had the opportunity of discussing it; definite provisions of the Act should have been accepted by this time. It is nearly four years since they passed the Constitution and even now the Government want to take shelter under the proviso in making rules. The proviso is clear. Till such enactments are passed by the appropriate Legislature, you can make rules. It is true. But why should you delay in bringing in appropriate Bill? You could as well have brought in original

Bills prescribing the conditions of service, the examinations required to be necessary and the way in which these should be held. The main portion of the Article 309 says that the appropriate Legislature shall pass the enactment, and, under the proviso, till such time as the enactments are passed, the Government are empowered to make rules. Why it should be delayed I cannot understand. It is high time for the Government to bring an appropriate legislation

Sri K. HANUMANTHAIYA (Chief Minister).—There is unnecessary heat.

Sri S. SRINIVASA IYENGAR.—Nothing. It is a point of fact.

Sri K. HANUMANTHAIYA.—What the point of fact is I will presently reveal. Article 309 is a general article not applicable to the present case. There is a separate article governing recruitment to the judiciary; that is Article 234. It reads as follows:

“Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.”

Therefore, when there is a self-contained article in the Constitution, it is not obligatory on the part of the Government to bring in a separate Act for that purpose. Government has framed rules in consultation with the High Court and the Public Service Commission, as laid down in Article 234. Therefore, the objection taken by my friends Sri S. Srinivasa Iyengar and Sri M. Linganna do not hold water.

Regarding the advisability of discussing those rules on the floor of the House, I do not know whether there is any such precedent. I am not aware of any convention, since I have not applied my mind to that aspect of the problem. As you have rightly said, Sir, we shall examine whether convention needs that these rules should be

discussed. We shall examine it and come to a conclusion some time later.

*Sri M. V. RAMA RAO (Tumkur).—May I know whether any separate rules are being contemplated by the Government for the recruitment of officers other than munsiffs and lower in rank to district judges under Article 234 of the Constitution? These rules, as I have been able to gather, do not appear to make any provision for the appointment by direct recruitment of judicial officers other than munsiffs. Are we to take it that only munsiffs will be recruited and that no direct recruitment will be made to the offices of subordinate judges or magistrates?

Sri K. HANUMANTHAIYA.—The rules make it clear. There is no ambiguity in the matter.

Sri M. V. RAMA RAO.—I do not hear the Hon'ble Member.

Sri J. MOHAMED IMAM.—To clarify the position the Chief Minister was pleased to state that the rules are prepared under Article 234. On the other hand in the notification issued it is said that the rules are framed under Article 234 and proviso to Article 309. According to this, these rules are governed by Article 309 also. So the conditions prescribed in Article 309 do apply to these rules also and the Government, I think, have to bring in an Act in the matter. (*A VOICE*: No). You say ‘no’ but I say ‘yes’.

Sri K. HANUMANTHAIYA.—Whatever ‘Yes’ you say does not become ‘No’ and whatever ‘No’ you say does not become ‘Yes’. Before we framed the rules, we consulted the Madras Government, the Bombay Government and looked into all the provisions of law that need to be looked into and we were satisfied that what we have done is all right. But if Hon'ble Members think that this should be discussed, as I have already said, we shall examine it. I want some time to look into it.

Sri L. SIDDAPPA (Channagiri).—We will all concede that.

Sri M. V. RAMA RAO.—I do not hear the Chief Minister. Do not the Government intend considering the present practice of direct recruitment from the Bar to the posts and offices of

(SRI M. V. RAMA RAO.)

subordinate judges and magistrates, as distinct from munsiffs?

Sri K. HANUMANTHAIYA.—Munsiffs and magistrates come under the same category. So far as subordinate judges are concerned, we are having other provisions in the rules for their recruitment. Therefore, that question does not arise.

Sri M. V. RAMA RAO.—Am I to take it that hereafter no recruitment will be made to the subordinate judges' posts?

Sri K. HANUMANTHAIYA.—He need not think like that. As and when occasions arise, Government will do the needful.

Sri M. V. RAMA RAO.—What I was trying to know is whether these rules do not restrict the framing of the rules merely to appointment of munsiffs.

Sri K. HANUMANTHAIYA.—That is exactly so. When we framed the rules, we have deliberately done them by restricting recruitment to the munsiffs' posts. We have not neglected subordinate judges. This is clear on the face of it.

Sri M. V. RAMA RAO.—What is it that the Government contemplate making for the appointment of subordinate judges?

Sri K. HANUMANTHAIYA.—We have not thought of it.

Sri J. MOHAMED IMAM.—Another information I want. You were pleased to say just now that out of the questions tabled for answers, nearly 292 are answered.

Mr. SPEAKER.—I want to say a word about this. Hon'ble Members will be pleased to see that in regard to recruitment to the public services of the State, the rules were framed and were placed before the House last time and amendments also were allowed to be moved. That was under Article 320, where provision is made and the legislature is empowered to move amendments and to discuss and express opinion. But, in respect of the rules relating to the recruitment of munsiffs, the first two lines of the notification issued show that they are issued under Article 234 and the proviso to Article 309.

In Article 234 we do not find a provision similar to what we find in Article 320.

10 A.M.

Subject to correction, of course, it requires very serious consideration whether it is absolutely necessary or not to issue rules under Article 309. That is a matter for further consideration. But these rules are framed under Article 234. I think I need not read Article 234. Hon'ble Members have read it just now. You have no power to make any amendment as it stands. So, so far as this question is concerned, it will be different from the framing of rules. As regards Sri M. V. Rama Rao's point, Article 234 relates to the recruitment of munsiffs and subordinate judges—'other than district judges', it is said. I think, for the time being, that would stand. And the Leader of the House has promised to consider all the aspects of this question and do the needful during the next session.

House Committee Report and enhanced power of Legislature Secretariat.

* Sri A. BHEEMAPPA NAIK (Molkalmuru).—Sir, the House Committee Report was placed before the House yesterday and the Chair was pleased to promise that an opportunity would be given for Members to state their views on that. Unfortunately, no time was fixed for discussion on this Report. I want to draw the attention of the House because it raises a very important issue. This House Committee has been functioning more or less as a petitioning body with no powers, because Article 187 has not received consideration at the hands of the Government. If only the Government had given powers to the Speaker and the Legislature Secretariat and the whole thing was managed by the Speaker himself, this House Committee need not have pleaded time and again from 1952 even for small conveniences to Members. I am told that the House Committee has passed resolutions and sent them to Government, but till now no reply is received.